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7                   IN FEDERAL DISTRICT COURT FOR THE  
8                   WESTERN DISTRICT OF WASHINGTON - SEATTLE  
9

10 LI LIU an individual,

11                   Plaintiff,

NO. 2:17-cv-00640

12                   v.

13 KEEGAN KELL an individual.

**VERIFIED COMPLAINT**

14                   Defendant.

15  
16  
17  
18                   COMES NOW Plaintiff LI LIU by and through counsel and alleges the  
19 following against Defendant KEEGAN KELL.  
20

21                   **I. INTRODUCTION**

22       1. This is a lawsuit for immigration financial support under the Form I-864,  
23 Affidavit of Support. The Form I-864 was created by the United States Congress  
24 in 1996 to ensure that family-sponsored immigrants are ensured a basic level of  
25 financial support, sufficient to meet the most basic needs of life. In mandating

1 the Form I-864, Congress required visa sponsors, rather than the American  
2 people, serve as a safety net to new immigrants.

3 2. Plaintiff is the Beneficiary of a Form I-864 signed by the Defendant.  
4 Defendant has failed to provide Plaintiff with the basic level of subsistence  
5 support promised in the Form I-864 contract. This lawsuit seeks to compel the  
6 Defendant to fulfill his support duty mandated by the Form I-864 contract and  
7 federal law.

8

9 **II. JURISDICTION AND VENUE**

10 3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 as  
11 this action arises under federal immigration law. 8 U.S.C. § 1183a(e)(I).

12 4. This court has personal jurisdiction over Defendant as, by signing the  
13 Form I-864 Defendant submitted to the jurisdiction of any court with subject  
14 matter jurisdiction over Plaintiff's claims. 8 U.S.C. § 1183a(a)(1)(C).

15 5. Venue is proper in this Court as the Defendant resides in the Western  
16 District.

17

18 **IV. PLAINTIFF**

19 6. Plaintiff Li Liu is a citizen of China and lawful permanent resident  
20 ("LPR") of the United States of America.

21 7. Plaintiff resides in Kirkland, Washington.

22

23 **V. DEFENDANT**

24 8. Defendant Keegan Kell is a citizen of the United States of America.

1       9.       As further alleged below, Defendant served as Plaintiff's immigration  
2       sponsor, thereby contractually promising to provide a specified level of income to  
3       her.

4       10.      Upon information and belief, Defendant resides in King County,  
5       Washington.

6

## 7                   VI. FACTUAL ALLEGATIONS

8                   **Background concerning the Form I-864, Affidavit of Support.**

9       11.      United States immigration law has long prohibited immigration by  
10      individuals deemed likely to be a drain on public resources.

11      12.      The current immigration statute, in effect at all times material to the  
12      facts alleged herein, forbids the entry of immigrants determined likely to become  
13      a "public charge." 8 U.S.C. § 1182(a)(4).

14      13.      The Form I-864, Affidavit of Support ("Form I-864") is required for a  
15      family-based immigrant visa applicant to overcome public charge inadmissibility.  
16      See 8 U.S.C. § 1182(a)(4)(C).

17      14.      Creation of the Form I-864 was mandated by Congress to ensure that  
18      certain classes of immigrants to the United States would be guaranteed a level of  
19      financial support necessary to meet basic human needs. Cf. Illegal Immigration  
20      Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat.  
21      3009; see, e.g., *Love v. Love*, 33 A. 3d 1268, 1276 (Pa. Super. Ct. 2011) ("[i]t is  
22      abundantly clear that the purpose of the Affidavit is to prevent an immigrant  
23      spouse from becoming a public charge").

24      15.      The immigration agencies published interim regulations implementing  
25      the Form I-864 in the summer of 1997, which regulations were finalized in 2006.  
26      Affidavits of Support on Behalf of Immigrants, 62 Fed. Reg. 54346 (Oct. 20, 1997)

1 (to be codified at 8 C.F.R. § 213.a1 *et seq.*) (hereinafter Preliminary Rules);  
2 Affidavits of Support on Behalf of Immigrants, 71 Fed. Reg. 35732 (June 21,  
3 2006).

4 16. The Form I-864 has been mandatory in marriage-based immigrant visa  
5 cases at all times material to the case at bar.

6 17. The Form I-864 is a legally binding contract between the sponsor and the  
7 United States Government.

8 18. By signing the Form I-864, the sponsor expressly agrees to provide the  
9 intending immigrant with any support necessary to maintain her at an income  
10 that is at least 125 percent of the Federal Poverty Guidelines for her household  
11 size.

12 19. The Federal Poverty Guidelines are published annually in the Federal  
13 Register, which published numbers govern the claims asserted herein.

14 20. The Form I-864 support obligation may be enforced by the immigrant  
15 beneficiary, who is a third-party beneficiary thereof. *See In re Marriage of Khan*,  
16 No. 44814-9-II, 2014 Wash. App. LEXIS 1916, at \*4-5 (Div. II, Aug. 5, 2014).

17 21. The Form I-864 specifies that the sponsor's support duty continues until  
18 the beneficiary: (1) becomes a U.S. citizen; (2) can be credited with 40 quarters of  
19 work; (3) is no longer a permanent resident and has departed the U.S.; (4) after  
20 being ordered removed seeks permanent residency based on a different I-864; or  
21 (5) dies (collectively "the Terminating Events").

22  
23 **Facts concerning Plaintiff's claims.**

24 22. Defendant is a citizen of the United States of America.

25 23. Plaintiff is a citizen of China.

26 24. Plaintiff and Defendant were married on October 31, 2013.

1       25.     Defendant caused to be filed with U.S. Citizenship and Immigration  
2 Services (“USCIS”) a Form I-130, Petition for Alien Relative, listing Plaintiff as  
3 the intending immigrant beneficiary.

4       26.     USCIS approved Defendant’s Form I-130 petition.

5       27.     Following approval of the Form I-130 petition, and based on that  
6 approved petition, Plaintiff filed a DS-260 application with the U.S. Department  
7 of State (DOS) for a marriage-based visa.

8       28.     Defendant caused to be filed with DOS a Form I-864, Affidavit of  
9 Support (the specific document executed by Defendant is referred to hereinafter  
10 as the “Contract”) in support of Plaintiff’s DS-260 application.

11      29.     Defendant executed the Contract and caused it to be filed with USCIS.

12      30.     Defendant’s support duty under the Contract was subject to the  
13 condition precedent that Plaintiff gain status as a Lawful Permanent Resident  
14 (“LPR”) based on the Contract signed by Defendant.

15      31.     Plaintiff’s marriage-based visa application was approved by the U.S.  
16 consulate.

17      32.     Plaintiff thereafter entered the United States on her marriage-based  
18 visa.

19      33.     Plaintiff was granted status as an LPR of the United States on May 31,  
20 2014.

21      34.     Plaintiff’s LPR status was based on the Contract signed by Defendant.

22      35.     None of the Terminating Events set forth in the Contract have yet  
23 occurred.

24      36.     Defendant has failed to provide Plaintiff with financial support as  
25 required under the Contract.

## VII. CLAIMS FOR RELIEF

## Breach of contract.

37. Plaintiff re-alleges and incorporates all paragraphs above as though fully stated herein.

38. By executing the Contract, Defendant entered into an express written contract with the United States Government.

39. Plaintiff is a third-party beneficiary of the Contract.

40. Plaintiff has standing as third-party to enforce her rights under the Contract.

41. Under the express terms of the Contract Defendant agreed to provide Plaintiff with any support necessary to maintain her at an income that is at least 125 percent of the Federal Poverty Guidelines for her household size.

42. Defendant's responsibility to provide income support commenced on May 31, 2014 when Plaintiff became a lawful permanent resident of the United States.

43. All conditions precedent to Defendant's duty to perform on the Contract were fulfilled as of May 31, 2014.

44. Defendant has breached the Contract by failing to provide income support to Plaintiff.

45. As a result of Defendant's breach, Plaintiff has suffered damages in an amount to be determined at trial.

## VIII. REQUEST FOR RELIEF

Plaintiff requests the following relief from the Court:

A. Entry of judgment against Defendant and in favor of Plaintiff on each and every cause of action asserted herein;

B. An award of actual damages in an amount equivalent to 125% of the Federal Poverty Guideline for Plaintiff's household for the period from May 31, 2014 to the date on which judgment issues;

C. A declaration that Plaintiff is entitled to continued receipt of financial support from Defendant in the amount of 125% the Federal Poverty Guidelines for her household size, less actual income, until the occurrence of one of the Terminating Events.

D. An order of specific performance, requiring Defendant to make monthly payments to Plaintiff for the amount set forth in Paragraph C above, until such time as a Terminating Event occurs.

E. An award of all Plaintiff's attorney fees;

F. An award of all Plaintiff's costs;

G. The right to amend this complaint to conform to the evidence presented at trial; and

H. Such other and further relief in Plaintiff's favor as the Court may deem just and equitable under the circumstances.

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1 DATED: April 24, 2017,  
2 Immigration Support Advocates  
3

4 By: /s/Greg McLawsen  
5 Greg McLawsen, WSBA #41870

6 1201 Pacific Ave., Suite 600  
7 Tacoma, WA 98402  
8 Tel. (844) 557-3646  
greg@i-864.net

9 ***Attorneys for Plaintiff Li Liu***

## VERIFICATION

## STATE OF WASHINGTON

)

County of King

: ss

I, Li Liu the Plaintiff in the above-entitled action say:

7 Declarant has read the foregoing Verified Complaint for Breach of Contract and  
8 knows the comments thereof; and declarant states that, except as to the matters  
9 that are therein stated on information and belief which the declarant believes to  
10 be true, the foregoing information is based on the declarant's personal knowledge,  
11 on information communicated to her by personal and other persons, and the  
12 declarant states that such foregoing information is true and correct to the best of  
13 her knowledge.

14 I declare under penalty of perjury that the foregoing is true and correct.

15 Dated 22 April 2017,  
16 Li Lin.

17 | Li Liu Declarant.

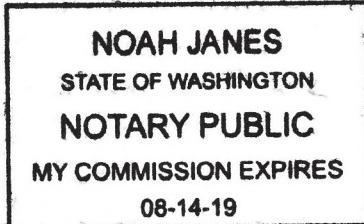
SIGNED and SWORN to before me this 4/22/2017.

re me this 4/22/2017.  
Reed Jantzen

Notary Public in and for the State of WA.

Residing at Seattle, Washington.

My Commission Expires: 08/14/2019



**VERIFIED COMPLAINT – PAGE 9  
CASE NO.**

**Immigration Support Advocates**  
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